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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,876	01/20/2004	Ray C. Torres	21488/04106	1875

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EXAMINER

LE, HUYEN D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,876

Applicant(s)

TORRES, RAY C.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, 12-16, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 09056623.

The JP 09056623 reference discloses a system for covering access openings in a tub skirt 5 comprising: a bracket 15 affixable to a tub skirt 5; a panel 24 (or 23) attachable to and detachable from the bracket 15, when attached the panel 24 (or 23) hiding the bracket 15 from viewing; and clips 30 used to attached the panel 20 to the bracket 34.

Regarding claim 2, the bracket 15 extends around the perimeter of a portion of the tub skirt 5 defining an access opening 11.

Regarding claim 4, the clips 30 integrally are formed with and extend from the back of the panel 24 (or 23).

Regarding claim 5, the clips 30 include a straight portion and an angled portion as shown in Figures 8,7, 11.

Regarding claim 6, the angled portion of the clip includes a leading edge and a trailing edge together defining a V-shape (see Fig. 8).

Regarding claim 7, the bracket 15 includes a fastener mating surface 21 including on raised ridge (at front edge).

Regarding claim 8, the mating surfaces 21 are tapered from the front of the bracket 15 to the back of the bracket 15 (see Fig. 8).

Regarding claim 10, rectangular frame includes at least one fastener mating surface 21 (or 18) on at least two side of its four side.

3. Claims 1, 3-7, 9, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodman (3,028,603).

The Rodman reference discloses a system for covering an access opening in a tub skirt (Fig. 4) comprising: a bracket 34 affixable to a tub skirt (including member 15 and 28); a panel 20 attachable to and detachable from the bracket 34, when attached the panel 20 hiding the bracket 34 from viewing; and portions 25 (on the sides of hole 26) with ribs 25' constituting clips used to attached the panel 20 to the bracket 34.

Regarding claim 4, the clips 25' integrally are formed with and extend from the back of the panel 20.

Regarding claim 5, the clip 25' includes a straight portion 25 (inturned flange) and an angled portion.

Regarding claim 6, the angled portion (rib 25') of the clip includes a leading edge and a trailing edge together defining a V-shape.

Regarding claim 7, the bracket 34 includes a fastener mating surface 33 having raised ridges 33'.

Regarding claim 9, the bracket 34 is a rectangular frame.

Regarding claim 12, a tub skirt comprises a face portion (including members 15 and 32) defining an access opening (disposed between members 15 and 32); a bracket 34 affixable to the skirt face portion; a panel 20 attachable to and detachable from the bracket 34; clips 25' used to attach the panel 20 to the bracket 34.

Regarding claim 14, the tub skirt 15 is integrally formed with a tub 10.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 09056623 in view of JP 2000217729.

Although the JP 09056623 reference does not disclose that the clips 30 (or 28) are detachable from the panel 24 (or 23), attention is directed to the JP 2000217729 which teaches clips 42 and 44 are detachably mounted to a panel 4.

It would have been obvious to one of ordinary skill in the art at the time the invention was made modify the clips 30 (or 28) of the JP 09026623 panel so that they are detachably mounted to the panel in view of the teaching of the JP 2000217729 for facilitating replacement of the clips when the clips are broken or malfunctioned.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 09056623 in view of Booth et al (US 2004/0216225).

Although the JP 09056623 reference does not disclose that the bracket is attached to the tub skirt with an adhesive, attention is directed to the Booth et al reference which teaches a tub having a mounting bracket 6 attached to an access opening by glue or screw or other fastening means.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute a glue for the screws of the JP 09056623 reference in view of the teaching of the Booth et al reference for attaching the bracket to an access opening of the tub skirt, wherein so doing would amount a mere substitution of one functional equivalent fastening means for another within the same art that would work equally well in the JP 09056623 system or device.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 2 and 12 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huyen Le
Examiner
Art Unit 3751

February 13, 2006